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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/673,045	09/26/2003	Stephen J. Brown	03-0940 / 7553.00038	8048
60683 7590 10/30/2007 HEALTH HERO NETWORK, INC. 2400 GENG ROAD, SUITE 200 PALO ALTO, CA 94303			EXAMINER CHEUNG, VICTOR	
			ART UNIT 3714	PAPER NUMBER
			MAIL DATE 10/30/2007	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

Application No.

10/673,045

Applicant(s)

BROWN ET AL.

Examiner

Victor Cheung

Art Unit

3714

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 21 August 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 48,50-52,54-62,64,65,67-79,81-84 and 86-95 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 48,50-52,54-62,64,65,67-79,81-84 and 86-95 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

### **DETAILED ACTION**

1. Amendments/arguments have been filed 8/21/2007.

Claims 48, 50-52, 54-62, 64-65, 67-79, 81-84, and 86-95 are pending in the application.

### ***Terminal Disclaimer***

2. The terminal disclaimer filed on 8/21/2007 disclaiming the terminal portion of any patent granted on this application which would extend beyond the expiration date of US Patent Number 5,601,435 has been reviewed and is accepted. The terminal disclaimer has been recorded.

### ***Claim Rejections - 35 USC § 112***

3. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

4. Claims 48, 50-52, 54-62, 64-65, 67-79, 81-84, and 86-95 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. In claim 48, section (f)(ii), Applicant claims the interface comprising "more than approximately a quarter of a physical distance separating said physiological data monitor and said housing of said processor." Claims 51 (c)(iii), 62(c)(ii), 75(d)(ii), 81(d)(ii), and 86-95 also include claims regarding the distance of the isolating interface. Examiner is unable to find

any support in the disclosures of the instant application or in the parent cases regarding the distances being claimed.

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 48, 51, 52, 57, 59, 60, 75-79, 81-84 are rejected under 35 U.S.C. 103(a) as being unpatentable over Brown (US Patent No. 5,307,263) in view of Fletcher et al. (US Patent No. 3,910,257).

Re Claim 48: Brown discloses a display device including a display screen, an audio speaker, a processor configured to provide audio and visual signals to the display device and audio speaker, at least one memory (Fig. 1; Col. 5, Lines 44-48), at least one physiological data monitor configured to provide a signal representative of a user physiological parameter (Fig. 1, Reference No. 16), an interface coupled between the processor and the physiological data monitor (Col. 5, Lines 17-20), a program controller configured to receive an input from a user and provide a control signal to the processor based upon the user's input, thereby to cause health related information to be provided to the user based upon the signal representative of the physiological parameter and the control signal

(Col. 9, Line 67-Col. 10, Line 5), wherein the physiological parameter includes a blood glucose level and the physiological data monitor includes a blood glucose indicator (Col. 7, Lines 33-37).

However, Brown does not specifically disclose an electrically isolating interface coupled to the multimedia processor that is neither disposed within the housing containing the processor or the glucose monitor, and is more than a quarter of a physical distance separating the glucose monitor and the processor.

Fletcher et al. disclose a subject monitoring device including a plurality of couplers included at each end of the cord (Fig. 1, Reference 13) that connects the data monitor and the data acquisition unit and electrically isolates that devices (Col. 3, Lines 45-53).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to include electrical isolation at the data management unit, outside of the glucose monitor and the processor, such that electrical isolation can be accomplished at any connecting point in the system, not restricted within another device. Note that the data management unit of Brown is located approximately halfway between the blood glucose monitor and the housing of the processor.

Also regarding the limitation of the physical distance of the electrical isolation device, as Applicant has not specifically disclosed a reason as to why the placement of a quarter of a physical distance separating the glucose monitor and the housing of the processor would be beneficial, the limitation is only a design choice, and one of ordinary skill would have placed the electrical isolation device at a comfortable distance between the glucose monitor and the processor housing.

James et al. teach a biofeedback system comprising optical isolation between a biofeedback unit and a processor (Col. 3, Lines 5-13).

Re Claims 51-52: Brown discloses a blood glucose monitor adapted to measure a blood glucose level of a user and for generating a first signal in response to a measurement of blood glucose (Fig. 1, Reference No. 16), a processor for receiving a second signal that is a function of the first signal (Fig. 1, Reference No. 10), an interface coupled between the blood glucose monitor and the processor for receiving the first signal and providing the second signal (Col. 5, Lines 17-20), a memory coupled to the processor for storing blood level data (Col. 12, Lines 4-5), and a display system coupled to the processor for displaying a representation of the blood glucose level data, so as to provide health related information to the user in an interactive manner (Fig. 1, Reference No. 40).

However, Brown does not specifically disclose the interface electrically isolating the user from the processor.

James et al. teach a biofeedback system comprising optical isolation between a biofeedback unit and a processor (Col. 3, Lines 5-13).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to include electrical and optical isolation between the blood glucose monitor and the processor, thereby isolating each apparatus from each other, protecting each apparatus and the user from any malfunction.

Re Claim 57: Brown additionally discloses moving images (Col. 5, Line 68-Col. 6, Line 4).

Re Claim 59: Brown additionally discloses educational information (Col. 5, Lines 44-48).

Re Claim 60: Brown additionally discloses the system configured to store information on at least one memory for later retrieval (Col. 1, Lines 56-61; Col. 12, Lines 4-5).

Re Claims 79 and 84: Brown additionally discloses means for receiving the signal, converting the signal into an acceptable form for the processor, and controlling the processor (Col. 7, Line 29-Col. 8, Line 45; Col. 10, Lines 5-25).

Re Claims 75-76, 81-82: Brown discloses an apparatus for interactively monitoring a blood glucose level and for interactively providing health-related information comprising a display device comprising a display screen (Fig. 1; Col. 5, Lines 44-48), a processor coupled to provide a visual signal to the display screen, wherein the processor is contained within a housing (Fig. 1; Col. 5, Lines 44-48), an interface device coupled to the multimedia processor (Col. 5, Lines 17-20), a glucose monitor coupled to provide a signal representative of a blood glucose level to the interface device (Fig. 1, Reference No. 16), wherein the glucose monitor is configured to operate while physically separated from the processor and outside the housing containing the processor (Fig. 1), and a controller coupled to provide a control signal to the processor based on user input, so as to provide health related information in an interactive manner (Col. 9, Line 67-Col. 10, Line 5).

However, Brown does not specifically disclose an electrically isolating interface coupled to the multimedia processor that is neither disposed within the housing containing the processor or the glucose monitor, and is more than a quarter of a physical distance separating the glucose monitor and the processor.

Fletcher et al. disclose a subject monitoring device including a plurality of couplers included at each end of the cord (Fig. 1, Reference 13) that connects the data monitor and the data acquisition unit and electrically isolates that devices (Col. 3, Lines 45-53).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to include electrical isolation at the data management unit, outside of the glucose monitor and

the processor, such that electrical isolation can be accomplished at any connecting point in the system, not restricted within another device. Note that the data management unit of Brown is located approximately halfway between the blood glucose monitor and the housing of the processor.

Also regarding the limitation of the physical distance of the electrical isolation device, as Applicant has not specifically disclosed a reason as to why the placement of a quarter of a physical distance separating the glucose monitor and the housing of the processor would be beneficial, the limitation is only a design choice, and one of ordinary skill would have placed the electrical isolation device at a comfortable distance between the glucose monitor and the processor housing.

7. Claims 48, 50-52, 54-56, 60, 62, 64, 65, 67-69, and 73 are rejected under 35 U.S.C. 103(a) as being unpatentable over Beckers (US Patent No. 5,019,974) in view of Brown (US Patent No. 5,307,263) and Fletcher et al. (US Patent No. 3,910,257).

Re Claims 48, 62, and 65: Beckers discloses a system and method for monitoring a physiological condition and for providing health-related information comprising a display device including a display screen (Figs. 1-2), an audio speaker (Fig. 3, Reference No. 38), a processor configured to provide audio and visual signals (Fig. 3, No. 30; Fig. 9, No. 100), at least one memory (Fig. 3, Nos. 32 and 34; Fig. 9, Nos. 102-103), at least one physiological data monitor configured to provide a signal representative of a user physiological parameter (Fig. 1, No. 60; Fig. 3, No. 58), an interface coupled between the processor and the physiological data monitor (Fig. 3, No. 56), a program controller configured to receive an input from a user and provide a control signal to the processor based on the input, causing health related information to be provided to the user (Fig. 1;



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Fig. 3, No. 48; Col. 1, Lines 33-45), wherein the physiological parameter includes a blood glucose level and the physiological data monitor includes a blood glucose indicator (Col. 2, Lines 34-36).

However, Beckers does not specifically disclose the physiological data monitor configured to operate while physically separated from the processor and outside a housing containing the processor, and the interface used to electrically isolate the physiological data monitor from the processor, wherein it is approximately a quarter of the physical distance separating the physiological data monitor and the housing of the processor.

Brown discloses a system wherein the processor within a housing is physically separated from both the interface device and the physiological data monitor (Fig. 1).

Fletcher et al. disclose a subject monitoring device including a plurality of couplers included at each end of the cord (Fig. 1, Reference 13) that connects the data monitor and the data acquisition unit and electrically isolates that devices (Col. 3, Lines 45-53).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to make separable each individual element of the system as in Brown, such that each standalone device is able to be operated and is each accessible without the entire system. It would have been obvious to one of ordinary skill in the art at the time the invention was made to include electrical isolation at the data management unit, outside of the glucose monitor and the processor, such that electrical isolation can be accomplished at any connecting point in the system, not restricted within another device, providing protection to each apparatus and the user from any malfunction. Note that the data management unit of Brown is located approximately halfway between the blood glucose monitor and the housing of the processor.

Also regarding the limitation of the physical distance of the electrical isolation device, as Applicant has not specifically disclosed a reason as to why the placement of a quarter of a physical

distance separating the glucose monitor and the housing of the processor would be beneficial, the limitation is only a design choice, and one of ordinary skill would have placed the electrical isolation device at a comfortable distance between the glucose monitor and the processor housing.

Re Claims 50 and 64: Beckers additionally discloses the system and method of using the interface including a signal receiver for receiving the blood glucose level signal, a converter for converting the received signal into a form acceptable to the processor (Fig. 1, No. 56), and a multimedia controller for controlling the processor (Fig. 1, Nos. 56 and 42; the I2C Bus requires control of the processor for serial transmission).

Re Claims 51 and 52: Beckers discloses a blood glucose monitor adapted to measure a blood glucose level of a user and for generating a first signal in response to a measurement of blood glucose (Fig. 1, No. 60; Fig. 3, No. 58; Col. 2, Lines 34-36), a processor for receiving a second signal that is a function of the first signal (Fig. 3, No. 30) in a housing (Fig. 1), an interface for receiving the first signal and providing the second signal (Fig. 3, No. 56), a memory coupled to the processor for storing blood level data (Fig. 3, Nos. 32 and 34; Col. 3, Lines 40-50), and a display system coupled to the processor for displaying a representation of the blood glucose data, so as to provide health related information to the user in an interactive manner (Figs. 1 and 2).

However, Beckers does not specifically disclose the processor configured to operate while physically separated from the glucose monitor and outside a housing containing the processor, and the interface used to electrically isolate the glucose monitor from the processor, wherein it is approximately a quarter of the physical distance separating the physiological data monitor and the housing of the processor.

Brown discloses a system wherein the processor within a housing is physically separated from both the interface device and the physiological data monitor (Fig. 1).

Fletcher et al. disclose a subject monitoring device including a plurality of couplers included at each end of the cord (Fig. 1, Reference 13) that connects the data monitor and the data acquisition unit and electrically isolates that devices (Col. 3, Lines 45-53).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to make separable each individual element of the system as in Brown, such that each standalone device is able to be operated and is each accessible without the entire system. It would have been obvious to one of ordinary skill in the art at the time the invention was made to include electrical isolation at the data management unit, outside of the glucose monitor and the processor, such that electrical isolation can be accomplished at any connecting point in the system, not restricted within another device, providing protection to each apparatus and the user from any malfunction. Note that the data management unit of Brown is located approximately halfway between the blood glucose monitor and the housing of the processor.

Also regarding the limitation of the physical distance of the electrical isolation device, as Applicant has not specifically disclosed a reason as to why the placement of a quarter of a physical distance separating the glucose monitor and the housing of the processor would be beneficial, the limitation is only a design choice, and one of ordinary skill would have placed the electrical isolation device at a comfortable distance between the glucose monitor and the processor housing.

Re Claims 54 and 67: Beckers additionally discloses the program controller enabling the user to make selections and to control the functions of the monitoring system (Col. 2, Lines 38-68).

Re Claims 55 and 68: Beckers additionally discloses that the program controller is hand-held (Fig. 1).

Re Claims 56 and 69: Beckers additionally discloses that the input from the user is from push button switches (Fig. 1; Col. 4, Lines 1-2).

Re Claims 60 and 73: Beckers additionally discloses that the system is configured to store information on at least one memory for later retrieval (Col. 3, Lines 40-50).

Re Claims 57 and 70: Beckers, as modified by Brown and Fletcher et al., teach the limitations of claims 48 and 62, as discussed above.

However, Beckers does not specifically teach moving images.

Brown teaches a health monitoring system wherein the display comprises moving images (Col. 5, Line 68-Col. 6, Line 4).

Thus it would have been obvious to one of ordinary skill in the art at the time the invention was made to include moving images on the display to further enhance acceptance and use of the invention to those less interested in a less animated display.

Re Claims 58 and 71: Beckers additionally teaches comparing measurements of the blood glucose level with previously stored measurements of the blood glucose level (Col. 14, Lines 6-13).

Re Claims 59 and 72: Beckers additionally teaches that the information includes educational information (Col. 13, Lines 44-50).

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8. Claims 61 and 74 are rejected under 35 U.S.C. 103(a) as being unpatentable over Beckers (US Patent No. 5,019,974) in view of Brown (US Patent No. 5,307,263) and Fletcher et al. (US Patent No. 3,910,257), as applied to claims 48 and 62 above, and further in view of Hutchens (The News Tribune, June 25, 1994).

Beckers, as modified by Brown and Fletchers et al., teach the limitations of claims 48 and 62.

However, Beckers does not specifically teach the display device being a television, and at least one removable memory.

Brown teaches the use a multimedia processor with at least one removable memory (Fig. 1, Reference Nos. 41-43; Col. 5, Lines 44-59).

Hutchens teaches that video game systems such as the GAME BOY™ of Brown can be played on a television screen (Abstract).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to include removable memories and a television display such that the processor is able to operate multiple different programs as necessary on a large display capable of displaying a large amount of information in a high resolution to a plurality of people.

9. Claim 61 rejected under 35 U.S.C. 103(a) as being unpatentable over Brown (US Patent No. 5,307,263) in view of Fletcher et al. (US Patent No. 3,910,257), as applied to claim 48 above, and further in view of Hutchens ("The News Tribune," June 25, 1994).

Brown, as modified by Fletcher et al., discloses the limitations of claim 48, discussed above.

Brown additionally discloses the processor has at least one removable memory (Col. 5, Lines 44-48).

However, Brown does not specifically disclose that the display device is a television display.

Hutchens teaches that video game systems such as the GAME BOY™ of Brown can be played on a television screen (Abstract).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to include removable memories and a television display such that the processor is able to operate multiple different programs as necessary on a large display capable of displaying a large amount of information in a high resolution to a plurality of people.

10. Claim 77 is rejected under 35 U.S.C. 103(a) as being unpatentable over Brown (US Patent No. 5,307,263) in view of Fletcher et al. (US Patent No. 3,910,257), as applied to claim 75 above, and further in view of Hutchens ("The News Tribune," June 25, 1994).

Brown and Fletcher et al. disclose the limitations of claim 75, discussed above.

However, Brown does not specifically disclose the display being a television display.

Hutchens teaches that video game systems such as the GAME BOY™ of Brown can be played on a television screen (Abstract).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to include a television display such that the information is displayed on large display capable of displaying a large amount of information in a high resolution to a plurality of people.

11. Claims 78 and 83 are rejected under 35 U.S.C. 103(a) as being unpatentable over Brown (US Patent No. 5,307,263) in view of Fletcher et al. (US Patent No. 3,910,257), as applied to claims 75

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and 81 above, and further in view of Hutchens ("The News Tribune," June 25, 1994) and Nunziata ("Billboard," October 31, 1992).

Brown discloses the limitations of claims 75 and 81, as discussed above.

However, Brown does not specifically disclose a CD-ROM drive and CDs.

Hutchens teaches that video game systems such as the GAME BOY™ of Brown can be played on a television screen (Abstract) through a SUPER NINTENDO ENTERTAINMENT SYSTEM™.

Nunziata teaches that video game consoles such as the SUPER NINTENDO ENTERTAINMENT SYSTEM™ can be adapted to use a CD-ROM and CDs.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to include a CD-ROM drive and interchangeable compact discs to provide additional functionality to the multimedia processor on a more flexible, larger storage format.

### ***Response to Arguments***

12. Applicant's arguments with respect to claims 48, 50-52, 54-62, 64-65, 67-79, 81-84, and 86-95 have been considered but are moot in view of the new ground(s) of rejection.

### ***Conclusion***

13. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

14. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Victor Cheung whose telephone number is (571) 270-1349. The examiner can normally be reached on Mon-Fri, 9-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Pezzuto can be reached on (571) 272-6996. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.



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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

VC

Victor Cheung  
October 29, 2007



ROBERT E. PEZZUTO  
SUPERVISORY PRIMARY EXAMINER